

The Labor and Employment Law Section of the State Bar of California Presents:

22nd Annual Meeting

November 5 & 6, 2004
Disneyland Hotel, Anaheim

The State Bar of California and the Labor and Employment Law Section are State Bar of California MCLE Approved Providers

NEW! Register Online at
www.calbar.ca.gov/laborlaw



Hotel Deadline: October 19, 2004

Pre-Registration: October 29, 2004

Sponsors

Supporters Circle
DirectTV Group, Inc.
Puente International

Exhibitors

Legislative History & Legislative Intent
www.naj.net

Earn up to 12.75 Hours MCLE Credit



*Bridging the Gap Between
Business Problems and Solutions.*

Labor & Employment Law Annual Meeting

As labor and employment law practitioners—in private and public practice, within companies and unions, and in the ADR realm—we, like the rest of the world, are seeing the very way we do business and the way we live change almost daily. What do we need to know to practice in our changing field today, and tomorrow? The Annual Meeting this year focuses not only on recent changes in labor and employment law and the practical implications of those many changes, but also on what the future may hold in our field and how we can prepare for it.

Program Registration Information

Registration:

Registration fees include admission to the Friday-Saturday MCLE-accredited programs, Friday-Saturday continental breakfasts, and afternoon break with snacks, Friday night reception, and the program materials. Registration fees are \$350 for members of the Labor & Employment Law Section of the State Bar of California, \$425 for non-members and \$150 for full-time law students. Three ways to register are as follows:

Your registration must be received no later than October 29, 2004. Return the program registration with your payment as follows:

REGISTER ONLINE at www.calbar.ca.gov/laborlaw. Registering is quick and easy. Go to www.calbar.ca.gov/laborlaw and click on the program name, or wait for our email invitation which will include a link to register. Last day to register online is October 29, 2004. Registration is available on site on a space-available basis.

By Mail: Please send your completed registration form and check payable to the State Bar of California/E482SAM: Program Registrations, The State Bar of California, 180 Howard Street, San Francisco, CA 94105-1639.

By Fax: Please fax your registration form with your credit card information to Program Registrations at (415) 538-2368 by October 29, 2004. Only faxes accompanied with the appropriate credit card information will be processed.

Cancellations/Refunds:

A refund, less a non-refundable fee of \$50 will be made to all registration cancellations received in writing by October 29, 2004. Substitute registrants are allowed but must register in their own name at the meeting to receive MCLE credit.

Hotel Reservations:

A limited number of rooms have been reserved at the *Disneyland®* Hotel, Anaheim, California at a special rate of \$165 Standard single/double; \$180 Standard Triple; and \$195 Standard Quad plus a 15% bed tax per night. A Resort fee in the amount of \$8.00 per Guest Room per day will be charged to your room. For reservations, please call the hotel directly at 714.520.5005 no later than October 19, 2004. Reservations made after the October 19, 2004 cut-off will be taken on a space-and-rate-available basis. Be sure to mention you are with the State Bar of California Labor and Employment Law Section's 22nd Annual Meeting to obtain the group rate. Each registrant is responsible for his or her own reservations.

Airline Discounts:

The State Bar of California has a discount program with United Airlines. The discounts are 10% off unrestricted full coach fares and 5% off any published (often restricted) fares. To make reservations or for additional information, please call the United Group Meeting Desk at (800) 521-4041 and refer to file number 550QX.

Special Assistance:

For special assistance, please call (415) 538-2393.

For registration information, please call Program Registrations at (415) 538-2508. For program content information, please call Theresa Raglen, Meeting & Event Administrator at (415) 538-2393.

Schedule of Events Program

FRIDAY, November 5, 2004

8:00–8:45 a.m.

Continental Breakfast / Registration

8:45–9:00 a.m.

Welcome

Tyler Paetkau, Partner, Bingham McCutchen LLP, Silicon Valley Office, and current Chair of Executive Committee of the Labor and Employment Law Section of the State Bar of California

Patti Perez, President, Puente International Consulting, Inc., San Diego, and Chair of the Annual Meeting Committee and member of the Labor and Employment Law Section Executive Committee.

9:00–11:00 a.m.

General Session:

The Good, the Bad and the Ugly: What's New in Labor and Employment Law

(2.00 Hours of MCLE Credit)

Employment law is changing at an unprecedented rate. Our panel of employment law experts will focus on new issues emerging from the surge of case law and statutory changes in 2004.

Panelists: **Tony Oncidi**, Proskauer Rose LLP, Los Angeles

Michelle Reinglass, Law Offices of Michelle Reinglass, Laguna Hills

11:00–11:15 a.m.

Break

11:15–12:30 p.m.

General Session

Class Actions – Everything You Always Wanted to Know but Were Afraid to Ask

(1.25 Hours of MCLE Credit)

With the new wave of class action litigation covering all areas of employment law, it is more important than ever to understand this area of law. Our panelists will cover all the latest developments in class action litigation.

Moderator: **Judith Rosenberg**, Oakland

Panelists: **Gilmore F. Diekmann, Jr., Esq.**, Seyfarth Shaw LLP, San Francisco

Jocelyn Larkin, Impact Fund, Berkeley

Edward J. Wynne, Esq., Righetti & Wynne, San Francisco

12:30–2:00 p.m.

Luncheon

2:00–3:15 p.m.

Concurrent Sessions:

[1] Public Sector Update

(1.25 Hours of MCLE Credit)

Get briefed on public sector court decisions, PERB cases and new legislation.

Moderator: **Carol Vendrillo**, California Public Employee Relations Program, Berkeley

Panelists: **David J. Duchrow**, Law Office of David J. Duchrow, Los Angeles

Tim Yeung, PERB Board Counsel, Sacramento

[2] Mind Your Own Business: A Review of Laws Affecting Privacy in the Workplace

(1.25 Hours of MCLE Credit)

This panel will focus on the entire gamut of issues affecting employees' right to privacy including, among many others, drug and other testing, background checks, investigations and computer/internet/email use.

Moderator: **Sunil Vatave**, People-Trak, Bonsal

Panelists: **Henry Fong**, Gap, Inc., San Francisco

Mike Wilbur, Cook & Roos LLP, San Francisco

[3] An Overview of Leaves of Absence Laws

(1.25 Hours of MCLE Credit)

Leaves of absences that are handled improperly often lead to unnecessary litigation. This panel will cover some of the more difficult areas, including the relationship among California's leave laws and when an indefinite leave of absence becomes unreasonable.

Panelists: **Karin L. Backstrom**, Backstrom & Heinrichs, San Diego
Carole Ross, Sheppard, Mullin, Richter & Hampton, San Diego
Marie Burke Kenny, Luce, Forward, Hamilton & Scripps LLP, San Diego

Break

Concurrent Sessions:

[4] Litigation Tricks Du Jour: Cutting Edge Strategies for Employment Cases

(1.25 Hours of MCLE Credit)

An in-depth presentation for experienced employment litigators interested in learning the latest tricks, strategies and tactics being used by leading members of the plaintiff and defense employment bars. This seminar will cover practical issues that arise from pre-litigation, during litigation, at trial, and during settlement negotiations.

Panelists: **Jeffrey D. Wohl**, Paul, Hastings, Janofsky & Walker LLP, San Francisco
Wilmer Harris, Schonbrun DeSimone Seplow Harris & Hoffman, Venice

[5] Arbitration Agreements: Where Are We Now?

(1.25 Hours of MCLE Credit)

Issues regarding arbitration agreements continue to be hotly debated in both state and federal court. The panel will discuss the latest developments in this ever-changing area of law.

Moderator: **Karen Clopton**, SFSU Foundation, San Francisco
Panelists: **Henry Lederman**, Littler Mendelson, Walnut Creek
Cliff Palefsky, McGuinn Hillsman & Palefsky, San Francisco
Honorable Ellen James, JAMS, San Francisco

[6] Tactics, Tips and Tidbits: The Art of Taking The Killer Deposition In Your Employment Case

(1.25 Hours of MCLE Credit)

This seminar will provide award winning deposition tactics to extract the evidence you need to win or defend your case. In addition, the bench's perspective on evidentiary issues and privileges will be discussed.

Moderator: **Tanja L. Darrow**, Berger Kahn Shafon Moss, Marina del Rey
Panelists: **Linda M. Savitt**, Ballard, Rosenberg, Golper & Savitt, Universal City
Alvin L. Pittman, Law Offices of Alvin Pittman, Los Angeles
Honorable Victor Person, Judge, Los Angeles Superior Court, Los Angeles

5:00–6:30 p.m.

Reception

SATURDAY, November 6, 2004

8:00–8:30 a.m.

Continental Breakfast

8:30–10:30 a.m.

General Session:

Wage & Hour Law: Still the Hottest Ticket in Town

(2.00 Hours of MCLE Credit)

Wage and hour claims continue to be filed at an unprecedented rate – both at the administrative and judicial level. This, coupled with the number of changes in this area of law over the last year, is sure to make this a lively and educational panel discussion.

Moderator: **Julianna Yasinski**, Williams, Yasinski & Jones, Los Angeles
Panelists: **Kelly Hensley**, Sheppard Mullin Richter & Hampton LLP, Los Angeles
Rene Barge, Spiro Moss, Los Angeles
Senior U.S. DOL Official (invited)

10:30–10:45 a.m.

Break

10:45 a.m.–12:00 p.m. **General Session:**

Things that Keep In-House Counsel Up at Night (and How Outside Counsel Can Help Them Sleep)

(1.25 Hours of MCLE Credit)

Lawsuits arising from corporate downsizing, failures to promote, ill-chosen employer statements about former employees, conduct of errant managers and retaliation claims give in-house counsel sleepless nights. Sleep aids include performance management systems; procedures for managing terminations, reference checking and audit processes. This will be an exciting interchange of views on cutting edge employment law issues among highly experienced in-house counsel.

Moderator: Patti Perez, Puente International Consulting, Inc., San Diego

Panelists: T. Warren Jackson, Direct TV, El Segundo

Mark Askanas, Ross Stores, Pleasanton

Angela Robledo, Northrup Grumman Corporation, Los Angeles

12:00–1:15 p.m.

Lunch

Theodore J. St. Antoine is the James E. & Sarah A. Degan Professor Emeritus of Law at the University of Michigan Law School in Ann Arbor. Topic: Outsourcing.

Presentation of Law School Writing Competition Award

1:15–2:30 p.m.

Concurrent Sessions:

[7] The New Private Attorneys General Act of 2004 (and recent amendments)—What Does it REALLY Mean for Labor & Employment Attorneys

(1.25 Hours of MCLE Credit)

The Labor Code Private Attorneys General Act of 2004 allows employees to sue in court for civil penalties that were previously unavailable. It has engendered a hostile reaction from the employer community, which has dubbed the “Bounty Hunter” and “Sue Your Boss” law. Do the recent amendments to the law, effective August 12, 2004, fix the problems identified by the employer community and others? This workshop will explain the law and its amendments; address practical issues in bringing and defending against these claims; and clarify the procedures that plaintiffs must follow and the coordination now required with the State, when seeking civil penalties for Labor Code violations.

Moderator: Felix DeLaTorre, Weinberg Roger & Rosenfeld, Oakland

Panelists: Robert Nuddleman, Griego & Associates, San Jose

Dale Hudson, Nixon Peabody LLP, Irvine

Lloyd C. Loomis, Sonnenschein Nath & Rosenthal, LLP, Los Angeles

[8] The Hiring War: Competitors Hiring Employees from Competitors

(1.25 Hours of MCLE Credit)

Whether your clients are recruiting talent from competitors, or concerned that former employees may use or disclose trade secrets or other confidential information in subsequent employment, this program will provide useful information concerning restrictive employment agreements, the employee’s duty of loyalty, trade secrets issues and best practices when hiring a competitor’s employee or losing an employee to a competitor.

Moderator: Paul Avilla, McPharlin et al. LLP, San Jose

Panelists: Linda Hendrix McPharlin, McPharlin, Sprinkles & Thomas, LLP, San Francisco

Raymond H. Hixon, Jr., Fenwick & West LLP, Mountain View

[9] Double Taxation of Attorneys’ Fees: The Implications in Employment Law Cases

(1.25 Hours of MCLE Credit)

As this issue continues to be debated in the courts, the experts in this panel will discuss the most important points concerning how attorney’s fees are classified for purposes of tax payments.

Panelists: Angie Dalfen, National Employment Lawyers Association, San Francisco

David Porter, Robert W. Wood Professional Corporation, San Francisco



2:30–2:45 p.m.
2:45–3:45 p.m.

Break

Concurrent Sessions:

[10] Elimination of Bias: Access for the Disabled

(1.00 Hour MCLE Elimination of Bias Credit)

This panel will explore cutting edge issues that arise for persons with disabilities who require meaningful access to our courts and legal system. Learn more about how to obtain a successful outcome for an attorney, witness or party with a disability.

Moderator: Joanne Frankfurt, FEHC, San Francisco

Panelists: Honorable Ken Kawaichi, JAMS, San Francisco
Linda McCulloh, Judicial Council for CA/ Administrative
Office of the Courts, San Francisco
Deputy Attorney General Sam Overton, Attorney General's Office

[11] Fighting Slavery: The Triumph of the Domestic Worker

(1.00 Hour of MCLE Credit)

This panel will focus on the emerging field of slave labor litigation, the involuntary servitude of immigrant domestic workers. Legal theories and trial strategies critical to winning such a case will be examined.

Moderator: Phyllis Cheng, CA Court of Appeal, 2nd District, Division 7,
Los Angeles

Panelists: Della Bahan, Bahan & Associates, Pasadena
Randall Renick, Law Offices of Randall Renick, Pasadena
Dan Stormer, Hadsell & Stormer, Pasadena

3:45–5:00 p.m.

Concurrent Sessions:

[12] Cross Border Employment Law

(1.50 Hours of MCLE Credit)

A panel of experienced domestic and international labor/employment, employee benefit and immigration law practitioners will discuss cross-border U.S. and foreign labor, employment, tax, benefits and immigration legal issues pertinent to executive and employee relocations, expatriations, off-shoring, outsourcing and due diligence for merger/acquisition planning transactions.

Moderator: Peter A. Gelles, Los Angeles

Panelists: Gary B. Perl, Fragomen, Del Rey, Bernsen & Loewy, LLP,
San Diego
Alison Wright, Trucker Huss, San Francisco

[13] Due Process in the Public Sector

(1.50 Hours of MCLE Credit)

This panel of experts in public sector law will discuss the history and recent developments involving employees' due process rights in the public sector.

Moderator: David J. Duchrow, Law Office of David J. Duchrow, Los Angeles

Panelists: Alan Hersh, W. Contra County Unified School District, Richmond
Samuel J. Wells, Law Offices of Samuel J. Wells, Los Angeles

[14] The Avoidable Consequences Doctrine After McGinnis: How to Prevent the Sandbagging Employee from Winning the Lottery—How to Ensure the Do-Nothing Employer Is Held Accountable

(1.50 Hours of MCLE Credit)

This panel will discuss the holding of the McGinnis case and how the avoidable consequences doctrine will impact the litigation of sexual harassment hostile work environment cases. This seminar will also discuss the respective duties of the employee and the employer post McGinnis.

Moderator: Antoinette Tutt, Lewis, Brisbois, Bisgaard & Smith LLP,
Los Angeles

Panelists: David Neill, Office of the Attorney General, Sacramento
Christopher Whelan, Gold River

Program Registration Form

The Labor & Employment Law Section 22nd Annual Meeting

Bar # _____
Name _____
Firm/Organization _____
Address _____
City, State, Zip Code _____
Phone _____ Fax _____
Email _____

Badge Information

First Name or Nickname (as you wish it to appear on your badge) limit to 20 characters

Spouse/Guest Name _____

Identify Your Practice _____

(Public, private, plaintiff, defense, union, management, in-house, neutral)

Your name and address may be disclosed to other 2004 Annual Meeting attendees and exhibitors/vendors.

Registration Fees

(Includes: Conference registration, program materials, Friday and Saturday continental breakfast and luncheons.)

- ☐ Labor and Employment Law Section Members\$350
☐ Non-section members—\$60 of my non-member registration fee will be credited to 2005 Section fees\$450
☐ Full-time Students\$150

Amount Enclosed/to be Charged\$ _____

Course Selector

Please check the appropriate box of the programs and event you plan to attend:

Friday, November 5, 2004

12:30 p.m.–2:00 p.m.

- ☐ [15] Luncheon

2:00 p.m.–3:15 p.m.

- ☐ [1] Public Sector Update
☐ [2] Mind Your Own Business: A Review of Laws Affecting Privacy in the Workplace
☐ [3] An Overview of Leaves of Absence Laws

3:30 p.m.–4:45 p.m.

- ☐ [4] Litigation Tricks Du Jour: Cutting Edge Strategies for Employment Cases
☐ [5] Arbitration Agreements: Where Are We Now?
☐ [6] Tactics, Tips and Tidbits: The Art of Taking the Killer Deposition In Your Employment Case

Saturday, November 6, 2004

12:00 noon–1:15 p.m.

- ☐ [16] Luncheon Professor Theodore St. Antoine

1:15 p.m.–2:30 p.m.

- ☐ [7] The New Private Attorney General Act—What Does it REALLY Mean for Labor & Employment Attorneys
☐ [8] The Hiring War: Competitors Hiring Employees from Competitors
☐ [9] Double Taxation of Attorneys Fees: The Implications in Employment Law Cases

2:45 p.m.–3:45 p.m.

- ☐ [10] Elimination of Bias: Access for the Disabled
☐ [11] Fighting Slavery: The Triumph of the Domestic Worker

3:45 p.m.–5:00 p.m.

- ☐ [12] Cross Border Employment Law
☐ [13] Due Process in the Public Sector
☐ [14] The Avoidable Consequences Doctrine After McGinnis: How to Prevent the Sandbagging Employee from the Winning the Lottery—How to Ensure the Do-Nothing Employer Is Held Accountable

Credit Card Information (Visa/MasterCard Only)

I/We authorize the State Bar of California to charge my/our program registration to my/our VISA/MasterCard account. (No other credit cards will be accepted.)

Account Number _____

Exp. Date _____

Cardholder's Name _____

Cardholder's Signature _____

State Bar Education Foundation
Labor and Employment Section
180 Howard Street
San Francisco, California 94105-1639

First-Class PRSRT
U.S. Postage
PAID
Documentation

Do It All Online at
www.calbar.ca.gov/laborlaw

